

**Unofficial Draft Copy**

As of: August 21, 2000 (1:26PM)

LC0069

\*\*\*\* Bill No. \*\*\*\*

Introduced By \*\*\*\*\*

By Request of the \*\*\*\*\*

A Bill for an Act entitled: "An Act generally revising cooperative association law; eliminating the forty year limit on existence for cooperative associations; eliminating the limit on the number of persons that can form a cooperative association; removing minimum requirement for initially subscribed stock; eliminating price limits on cooperative association shares; authorizing the secretary of state to establish filing fees commensurate with costs; and amending sections 35-15-103, 35-15-201, 35-15-203, 35-15-204, 35-15-205, and 35-15-401, MCA;."

Be it enacted by the Legislature of the State of Montana:

**Section 1.** Section 35-15-103, MCA, is amended to read:

**"35-15-103. Powers.** (1) Associations formed under this chapter ~~shall be~~ are bodies corporate and politic for the period for which they are organized, ~~not exceeding 40 years which may be of perpetual duration.~~

(2) ~~Associations~~ An association formed under this chapter may:

- (a) sue and be sued;
- (b) have a common seal which ~~they~~ an association may alter or renew at pleasure;
- (c) own, possess, and enjoy ~~so much~~ real and personal

property ~~as shall be~~ necessary for the transaction of ~~their~~ business and sell and dispose of the same; and

(d) borrow money and pledge ~~their~~ property, both real and personal, to secure the payment ~~thereof~~ any borrowed money.

(3) Associations formed under this chapter ~~shall~~ have ~~and exercise~~ all powers necessary and requisite to carry into effect the objects for which ~~they~~ the association may be formed ~~and such as are~~ including those powers usually exercised by cooperative associations, subject to all duties, restrictions, and liabilities set forth in the general laws ~~in relation~~ relating to similar corporations, ~~except so far as the same may be~~ that are not limited or enlarged by this chapter."

{Internal References to 35-15-103: None.}

**Section 2.** Section 35-15-201, MCA, is amended to read:

**"35-15-201. Incorporation.** (1) Whenever ~~any number of persons, not less than three or more than seven, may~~ a person or persons desire to ~~become incorporated~~ incorporate as a cooperative association for the purpose of trade or of ~~prosecuting~~ carrying out any branch of industry or the purchase and distribution of commodities for consumption or in the borrowing or lending of money among members for industrial purposes, ~~they~~ the person or persons shall ~~make~~ prepare a statement to that effect ~~under their hands~~ setting which also sets forth:

(a) the name of the proposed corporation;

(b) its capital stock;

(c) its location;

(d) the duration of the association; and

(e) the particular branch or branches of industry which ~~they~~ the association intend intends to ~~prosecute~~ carry out.

(2) In addition to ~~provisions~~ the items required in subsection (1), the statement of incorporation may also contain provisions not inconsistent with ~~law regarding the~~ liability provisions as set forth in 35-1-216.

(3) The statement accompanied by the required filing fee ~~shall~~ must be filed in the office of the secretary of state as the articles of incorporation of the association. ~~The~~ After receiving the fee and the statement the secretary of state shall ~~thereupon~~ issue to ~~such~~ the person or persons forming the association a license as commissioners to open books for subscription to the capital stock of ~~such corporation, the~~ association at ~~such~~ a time and place as ~~they~~ the person or persons forming the association may determine, ~~for which he shall receive the fee of \$20."~~

{Internal References to 35-15-201: None.}

**Section 3.** Section 35-15-203, MCA, is amended to read:

**"35-15-203. First meeting.** As soon as ~~10 or more~~ the initial shares of the capital stock ~~shall be~~ have been subscribed, the commissioners shall convene a meeting of the subscribers for the purpose of electing directors, adopting

bylaws, and transacting ~~such~~ other business ~~as shall~~ properly come before them. Notice ~~thereof shall~~ of the meeting must be given to each subscriber by ~~depositing same in the post office~~ mailing the notice, properly addressed, at least 10 days before the ~~time fixed, the meeting.~~ The notice must contain stating the object, time, and place of ~~said~~ the meeting."

{Internal References to 35-15-203: None.}

**NEW SECTION. Section 4. For filing, copying, and services.**

(1) The secretary of state shall establish by rule fees for filing documents and issuing certificates as required by this chapter.

(2) The secretary of state shall establish by rule fees for copying documents, priority handling, transmitting or filing facsimile copies, and providing computer-generated information.

(3) The fees prescribed under this section must be reasonably related to the costs of processing the documents and preparing and providing the services. The secretary of state shall maintain records sufficient to support the fees established under this section.

**Section 5.** Section 35-15-204, MCA, is amended to read:

**"35-15-204. Issuance of certificate of organization -- effect.** (1) The commissioners shall make a full report of ~~their proceedings the first meeting,~~ including ~~therein~~ a copy of the notice provided for in ~~the preceding section 35-15-203,~~ a copy of the subscription list, a copy of the bylaws adopted by the

association, and the names of the directors elected and their respective terms of office~~7, which~~ The report shall must be executed by at least a majority of the commissioners and ~~shall~~ must be filed in the office of the secretary of state along with any required filing fee. The secretary of state shall ~~thereupon~~ upon filing the report, issue a certificate of the ~~complete~~ completed organization of the association~~7, making a part thereof~~ a copy of all papers filed in his office in and about the organization and duly authenticated under his hand and seal of the state, for which he shall receive the sum of \$20, and ~~thereupon a certified copy of said certificate shall be filed in the office of the county clerk in which the principal office of the association is located.~~

(2) Upon the filing of ~~said certified copy~~ the report of the first meeting and the statement of incorporation with the secretary of state and the issuance of the certificate provided for in subsection (1), the association ~~shall~~ must be deemed to be fully organized and may ~~proceed to~~ engage in business."

{Internal References to 35-15-204: None.}

**Section 6.** Section 35-15-205, MCA, is amended to read:

**"35-15-205. Amendment of articles of incorporation.** At any time after the filing of the certificate of complete organization, the articles of incorporation may be amended. Any amendment of the articles of incorporation ~~shall first~~ must be first approved by two-thirds of the directors and then adopted by a vote of not less than two-thirds of those stockholders voting

~~thereon~~ at any regular meeting of the stockholders or at a special meeting of the stockholders called for that purpose. A certificate setting forth ~~such any~~ amendment ~~shall~~ must be executed on behalf of the association by its president or vice-president and ~~its corporate seal affixed thereto and attested to by its secretary. Such~~ The certificate and any required filing fee shall must be filed in the office of the secretary of state who shall ~~thereupon~~ issue a certificate of amendment of the articles of incorporation, ~~for which he shall receive the sum of \$10, and thereupon a certified copy of such certificate shall be filed in the office of the county clerk in which the principal office of the association is located.~~"

{Internal References to 35-15-205: None.}

**Section 7.** Section 35-15-401, MCA, is amended to read:

**"35-15-401. Classes of stock.** (1) The purchase price of the shares of stock shall not be less than \$10 or more than \$5,000 per share be set by the cooperative association and may be made payable in installments.

(2) Every cooperative association may divide its shares of stock into preferred and common stock. The holders of preferred stock ~~shall have no~~ may not have voting power and ~~shall~~ may not participate in the management and affairs of the association~~7.~~ ~~and the~~ The owners ~~thereof~~ of preferred stock shall share in the profits of the association to the extent ~~of not exceeding 6% per annum on the par value thereof~~ determined by the cooperative association. The common stock may be divided into classes of

different values, and the owners ~~thereof~~ of the common stock shall share in the profits of the association ~~in proportion to the par value of their shares~~ as determined by the cooperative association. However, the owners of common stock in the different classes shall have the same power and ~~vote~~ voting rights in the association.

~~(3) The stock heretofore issued in classes of different par values by any cooperative association is hereby legalized and made valid."~~

{Internal References to 35-15-401: None.}

NEW SECTION.    **Section 8. {standard} Codification instruction.** [Section 4] is intended to be codified as an integral part of Title 35, chapter 15, part 2, and the provisions of Title 35, chapter 15, part 2, apply to [section 4].

NEW SECTION.    **Section 9. {standard} Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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